



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 635458 BC LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR MNR MNSD FF

Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution, received at the Residential Tenancy Branch on March 15, 2017 (the "Application"). The Landlord applied for the following relief pursuant to the *Residential Tenancy Act* (the "Act"):

- an order of possession for unpaid rent or utilities;
- a monetary order for unpaid rent or utilities;
- an order allowing the Landlord to keep all or part of the security deposit or pet damage deposit; and
- an order granting recovery of the filing fee.

The Landlord was represented at the hearing by F.M., who provided affirmed testimony. The Tenant did not attend the hearing.

According to F.M., the Landlord's Application package, including the Notice of a Dispute Resolution Hearing and the documentary evidence, was served on the Tenant in person on March 16, 2017. I find that the Landlord's Application package was duly served on and received by the Tenant on that date.

The Landlord's agent was provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary and Procedural Matters

On behalf of the Landlord, F.M. advised that the Tenant cancelled BC Hydro service and moved out of the rental unit on March 23, 2017. Although the Tenant left some of her belongings behind in the rental unit, F.M. confirmed an order of possession is no longer required. This aspect of the Landlord's claim has not been considered further in this Decision.

Issues to be Decided

1. Is the Landlord entitled to a monetary order for unpaid rent or utilities?
2. Is the Landlord entitled to an order allowing the Landlord to keep all or part of the security deposit or pet damage deposit?
3. Is the Landlord entitled to an order granting recovery of the filing fee?

Background and Evidence

A copy of the tenancy agreement between the parties was submitted into evidence by the Landlord. It confirms the month-to-month tenancy began on January 24, 2017. Rent in the amount of \$750.00 per month is due on the first day of each month. The Tenant paid a security deposit to the Landlord in the amount of \$400.00, which the Landlord holds.

On behalf of the Landlord, F.M. testified the Tenant did not pay rent when due on March 1, 2017. Accordingly, the Landlord issued a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated March 3, 2017 (the "10 Day Notice"). At that time, \$775.00 was outstanding. This amount was comprised of March rent, plus a \$25.00 fee for the late payment of February rent. The 10 Day Notice was served on the Tenant by attaching a copy to the door of the Tenant's rental unit on that date. A copy of the 10 Day Notice was included with the Landlord's documentary evidence.

On behalf of the Landlord, F.M. also testified that rent was also not paid when due on April 1, 2017, and that rent in the amount of \$1,500.00 is currently outstanding. On behalf of the Landlord, F.M. also sought recovery of \$25.00 for the February late fee.

The Landlord also sought recovery of the \$100.00 filing fee paid to make the Application, and requested that they be permitted to apply the security deposit in partial satisfaction of any monetary award I make.

Analysis

Based on the unchallenged affirmed testimony and documentary evidence, and on a balance of probabilities, I find:

Section 26 of the *Act* confirms that a tenant must pay rent when it is due unless the tenant has a right under the *Act* to deduct all or a portion of rent. In this case, F.M. testified, and I find, that the Tenant did not pay rent when due on March 1 and April 1, 2017. Currently, rent in the amount of \$1,500.00 remains outstanding. The Tenant did not attend the hearing to dispute this amount. Therefore, I find the Landlord is entitled to a monetary award of \$1,500.00 for unpaid rent.

The Landlord also claimed \$25.00 for late payment fees. Section 7 of the Residential Tenancy Regulation allows a landlord to charge a fee up to \$25.00 for the late payment of rent. However, the tenancy agreement must provide for that fee. In this case, the tenancy agreement submitted into evidence by the Landlord does not provide for a late payment fee. Accordingly, this aspect of the Landlord's Application is dismissed.

Having been successful, I find the Landlord is entitled to recover the \$100.00 filing fee paid to make the Application. The Landlord also requested to apply the security deposit in partial satisfaction of my monetary order, which I allow, pursuant to section 72 of the *Act*.

Pursuant to section 67 of the *Act*, I grant the Landlord a monetary order in the amount of \$1,200.00, which has been calculated as follows:

Item	Amount
March 2017 rent:	\$750.00
April 2017 rent:	\$750.00
Filing fee:	\$100.00
<i>LESS</i> security deposit:	(\$400.00)
TOTAL:	\$1,200.00

Conclusion

The Landlord is granted a monetary order in the amount of \$1,200.00. This order may be filed in and enforced as an order of the Provincial Court of British Columbia (Small Claims).

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: April 19, 2017

Residential Tenancy Branch